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10/730,414	12/08/2003	Mishko Teodorovich	SSpan	2455

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EXAMINER

KWIECINSKI, RYAN D

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3635

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,414	Applicant(s) TEODOROVICH, MISHKO	
	Examiner Ryan D. Kwiecinski	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,9 and 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8,10 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment to the claims filed on 12 March 2007 does not comply with the requirements 37 CFR 1.52(b) because the claims must be 1½ or double-spaced. In all future amendments, Applicant is hereby notified that either 1½ or double spacing is required for amendments to the claims and the specification and for the remarks.

Election/Restrictions

Applicant's election with traverse of Species IX in the reply filed on 12 March 2007 is acknowledged. The traversal is on the ground(s) that Species II, V, and VIII also are formed from an extrudable base section and end caps. The argument is not found persuasive because even though all Species are formed from an extrudable base and end caps, the end caps of the various species have different connecting features so that the examiner's requirement for an election is proper. Although Applicant has listed claims 1-8, 10, 12-13, and 18-20 as being readable on the elected species, the examiner disagrees that claims 2, 3, 12, and 13 read on the elected species for the reasons below. Claims 2 and 3 recite structure such as a "raised side lip" and "a first portion" and "a second portion" of the base structure, which are not disclosed by the elected species. Claims 12-13 recite "the rear wall has a plurality of spacer" which is not disclosed by the elected species. The requirement is still deemed proper and is therefore made FINAL.

Claims 2, 3, 9, and 11-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable

generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12 March 2007.

Claims 1, 4-8, 10, and 18-20 have been examined in this Office Action.

Drawings

The drawings are objected to because

(1) Figs. 4, 8, 15A, 18B, 19B, 20B, 21B, and 23B are exploded views and therefore must have its separated parts embraced by a bracket to show relationship or order of assembly of parts as required by 37 C.F.R. § 1.84(h)(1).

(2) the examiner notes that reference numerals of characters "16" (Figs. 4, 8, 10, 13A, 13B, 14A, and 14B), "15A" (Figs. 5 and 9), "100" (Figs. 18F, 18G, and 20B), "200" (Figs. 18A, 18B, 18C, 18D, 19A, 19B, 19C, and 20B), "300" (Fig. 16), "400" (Figs. 15A, 17A, 17B, and 17C), "450" (Figs. 15A and 15C), "600" (Figs. 23H and 23I), "630" (Figs. 23D and 23E), "635" (Figs. 23F and 23G), and "640" (Figs. 23J and 23K) have all been underlined which is improper since reference numerals or characters should only be underlines if located on the structure they represent so the examiner suggests deleting the underlining and adding lead lines from the reference numeral or character leading to the structure which the reference numeral or character represents; and

(3) reference numerals or characters "15a" (Fig.4), "15b" (Fig.4), "15A" (Fig.8), and "15B" (Fig.8) have no lead lines leading therefrom to the structure they represent.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:
reference characters "335" and "330" have both been used to designate "front surface" (See page 16, lines 4 and 11). The examiner suggests that the specification be amended to change reference numeral "335" on Page 16, line 4 to --330--.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as

either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

(1) reference numeral "451" (Fig. 15c) is not in the specification and the examiner suggests that reference numeral —451—be inserted on Page 16, line 8, after the words "nail slot".

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Page 16, line 4, reference numeral "335" does not correspond with reference numeral "330" from Fig. 15A in the drawings (See drawing objection above).

Appropriate correction is required.

The use of the trademark "SureSill" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

Claims 1 and 7 are objected to because of the following informalities:

Claim 1, lines 15, the recitation "a side upward lip" is vague, indefinite, and confusing because it is unclear what the side lip is upward from (i.e. the lip is upward compared to what?).

Claim 1, lines 16 and 20, the recitation "a downwardly extending front lip" is vague, indefinite, and confusing because it is unclear what the lip is extending downwardly from and also the lip is extending downwardly compared to what?

Claim 7, line 2, the word "a" should be changed to —at—for proper grammar.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by
US 1,842,956 to Baum.**

Claim 1:

Baum discloses a sill pan for a window or door comprising a base (10, Fig.3) having a length and a width, the base comprising

- a first end (end connected to 32, Fig.3),
- a second end (end opposite first end)
- a sloped upper portion (10, Fig.2)

a rear wall (13, Fig.3)

a front flange (14, Fig.3)

a rear support (11, Fig.3), and

a front support (15, Fig.3)

such that the rear support and the front support on the base are lengthwise in order to permit the base to be manufactured by extrusion without requiring subsequent addition of support elements;

a first end piece (30,32, Fig.3), attachable to the base in the proximity of the first end of the base, the first end piece comprising

a side upward lip (32, Fig.3), and

a downwardly extending front lip (30, Fig.3); and

a second end piece (same structure, opposite side), attachable to the base in the proximity of the second end of the base, the second end piece comprising

a side upward lip, and

a downwardly extending front lip.

The recitation "to be able to be manufactured by extrusion" is a product by process and does not add structure to the sill pan of claim 1.

Claim 5:

Baum discloses the sill pan of claim 1 wherein the base is constructed of a metal (Column 1, lines 15-16).

Claim 10 is rejected under 35 U.S.C. 102(a and e) as being anticipated by US 1,842,956 to Bauman et al.

Claim 10:

Bauman et al. discloses method of manufacturing a sill pan comprising extruding a first base unit (Page 2, first sentence of paragraph [0021]), the base unit comprising

- a first end (end towards 4, Fig.2)
- a second end (end towards 3, Fig.2)
- a slanted upper portion (21, Fig. 7),
- a rear wall (9, Fig.7),
- a front flange (25, Fig.7),
- a rear support (12, Fig.7), and
- a front support (26, Fig.1)

such that the rear support and the front support on the first base unit are lengthwise (run lengthwise of the base, Fig.2) in order to permit the first base unit to be manufactured by extrusion;

cutting the first base unit to a desired length (Page 1, Paragraph [0009]);
affixing a first end element (Page 2, Paragraph 24) to the first end of the base unit; and

affixing a second end element (Page 2, Paragraph 24) to the second end of the base unit.

Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,136,814 to Headrick.

Claim 18:

Headrick discloses sill pan for a window or door comprising an extrudable (see Col.2, lines 21-23) base (12, Fig.1) having a length and a width, the base comprising

- a first end (right side of Fig.5),
- a second end (side opposite Fig.5),
- a sloped upper portion (18, Fig.1),
- a rear wall (32, Fig.1),
- a rear support (17,27, Fig.1), and
- a front support (22, Fig.1),

such that the rear support and the front support are oriented lengthwise on the base (run lengthwise, Fig.1);

a first end piece (36, Fig.1), attachable to the base in the proximity of the first end of the base, the first end piece comprising

a horizontal tab (37, Fig.1) which may be inserted between the rear support and the front support, the horizontal tab having a top surface (37, Fig.1) aligned with the top surfaces of the rear support and the front support (when

inserted in the frame member 12, the top surface of 37 will align with the top surfaces of the support 22 and 27),

a recess (the indentation next to 41, Fig.1) for receiving and overlapping the first end of the rear wall,

a recess (the recess with side 43, Fig.1) for receiving the first end of the rear support, and

a recess (underneath 44, Fig.1, the front support is able to fit under 44) for receiving the first end of the front support; and

a second end piece (identical piece opposite of 36, Fig.1, the structure of second end piece below is the identical rejection of the first end piece above), attachable to the base in the proximity of the second

end of the base, the first end piece comprising

a horizontal tab, which may be inserted between the rear support and the front support, the horizontal tab having a top surface aligned with the top surfaces of the rear support and the front support,

a recess for receiving and overlapping the second end of the rear wall,

a recess for receiving the second end of the rear support,

a recess for receiving the second end of the front support.

Claim 19:

Headrick discloses the sill pan of claim 18 wherein the horizontal tab of the first end piece is tapered (37, Fig.1).

Claim 20:

Headrick discloses the sill pan of claim 18 further comprising
a front flange (21, Fig.1) projecting downwardly from the front of the
extrudable base (12, Fig.1);

a recess (the front flange is able to fit underneath 44, Fig.1) in the first end
piece for receiving a first end of the front flange; and

a recess (the front flange is able to fit underneath 44, Fig.1) in the second
end piece for receiving a second end of the front flange.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US
1,842,956 to Baum in view of US 2005/0034385 A1 to Broad et al.**

Claim 4:

Baum discloses the sill pan of claim 1, but does not disclose that the base
is constructed of a plastic.

Broad et al. disclose that the base is constructed of a plastic (Page 2,
Paragraph 26, Table on Page 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed Baum's window sill from a plastics material taught by Broad et al. because plastics are known to have extraordinary tensile, aesthetic, and weather resistant properties, which are necessary in the construction of a window sill.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,842,956 to Baum in view of US 2004/0139667 A1 to Massey et al.

Claim 6:

Baum discloses the sill pan of claim 1, but does not disclose that the first end piece snaps onto the first end of the base.

Massey et al. disclose that the first end piece snaps onto (Page 10, paragraph 135) the first end of the base.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed Baum's sill with interlocking snap on parts as taught by Massey et al. in order to enable the pieces to be assembled and disassembled while holding a secure connection.

Claim 7:

Baum in view of Massey et al. discloses the sill pan of claim 6, Massey et al. also discloses the first end piece includes at least one projecting portion (203, Fig.35); and

the first end of the base includes a slot (15, Fig.25) which accepts the projecting portion.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,842,956 to Baum in view of US 2003/0106269 to Bauman et al.

Claim 8:

Baum discloses the sill pan of claim 1, but does not disclose that the first end piece is glued onto the first end of the base.

Bauman et al. disclose that the first end piece is glued (Page 3, Paragraph [0029], lines 11-16) onto the first end of the base.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have glued the first end piece of Baum's window sill structure to the first end of the window sill base as taught by Bauman et al. since gluing the end piece to the base will securely mount the end piece to the base as well as provide for a seal between the end piece and the base. This seal will prevent water from seeping through the connection between the end piece and the base.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan D. Kwiecinski whose telephone number is

(571)272-5160. The examiner can normally be reached on Monday - Friday from 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571)272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


RDK


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